***THE HON'BLE SRI JUSTICE V.V.S.RAO**

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+ WRIT PETITION No.26458 of 2005

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%Dated 13-12-2005

Manda Yadhav Reddy S/o.Late Manda Bal Reddy
R/o.M.Y.R.Garden, Champapet, Saidabad Hyderabad

..... PETITIONER

VERSUS

$ Government of Andhra Pradesh, Rep. by its Secretary, Urban Land

Ceiling Department,
Secretariat, Hyderabad, and others.

.....RESPONDENTS

! Counsel for Petitioner: Mr.V.Venkataramana

^Counsel for Respondents: GP For Assignment.

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? Cases referred

1959 ALT 66 (NRC)

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.26458 of 2005

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Dated:13.12.2005

Between:

Manda Yadhav Reddy S/o.Late Manda Bal Reddy
R/o.M.Y.R.Garden, Champapet, Saidabad Hyderabad

..... PETITIONER

AND

Government of Andhra Pradesh, rep.by its Secretary Urban Land

Ceiling Department, Secretariat, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.26458 of 2005

ORDER:

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The petitioner filed a declaration under Section 6 of the Urban Land (Ceiling & Regulations) Act, 1976 (for short 'the Act'). He filed an appeal under Section 33 of the Act, aggrieved by the final order/final statement under Section 8(4) of the Act determining the surplus vacant land. He also filed applications for stay of operation of the proceedings of the Special Officer. By impugned order, dated 07.12.2005, the second respondent rejected the request for stay without giving any reasons. This order is assailed in the writ petition. This Court heard learned Counsel for the petitioner and the learned Assistant Government Pleader for Revenue (Urban Land Ceiling).

It is well settled that ordinarily the appellate authority must exercise sound discretion while passing orders in the applications for stay of operation of the impugned order of the lower authority. There can be umpteen situations where the remedy of appeal itself would be rendered futile and useless if the order appealed is not stayed. Almost five decades ago, a learned Single Judge of this Court in **Narasimha Raju v. The State of A.P.,** dealing with this aspect observed as under.

> It is the duty of the Court in ordinary cases to make such orders for staying proceedings under the judgment appealed from as will prevent the appeal, if successful, from being nugatory. This position cannot be different so far as appeals under the Motor Vehicles Act are concerned. The authority exercising the revisionary jurisdiction under Sec.64-A should act on the principle of not making the final decision in the revision petition nugatory. Decision on application seeking stay orders must not be arbitrary or capricious. It further follows that reasons should be assigned where the refusal would make the final decision in the main revision barren.

As rightly pointed out by the learned Counsel for the petitioner, the impugned order refusing stay is bereft of any reasons. In such a situation, it is well-nigh impossible for the Court of judicial review to effectively exercise its power under Article 226 of the Constitution of India. This is already the second round of litigation by the petitioner and that he already approached this Court when the second respondent did not pass orders on the stay applications. In this background, this Court is of the considered opinion that instead of again remanding the matter, it would be in the interest of justice to stay dispossession insofar as land in Survey Nos.108, 109, 111, 116 and 118 of Saidabad Village and Mandal, Hyderabad, and further direct the second respondent to dispose of the appeal filed by the petitioner within a period of four weeks from the date of receipt of a copy of this order.

The Writ Petition, with the above observations and directions, is accordingly

disposed of. No costs.

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(V.V.S.RAO, J)

13.12.2005

Note: L.R.Copy to be marked.

B/o.

vs